

REMARKS

Claims 1, 25, and 45 have been amended. Claims 1-64 remain pending in the application. Reconsideration is respectfully requested in light of the following remarks.

Section 103(a) Rejections:

The Examiner rejected claims 1-3, 5-7, 11-15, 18, 21 and 22 under 35 U.S.C. § 103(a) as being unpatentable over Davis et al. (U.S. Patent 6,105,064) (hereinafter “Davis”) in view of Dreke et al. (U.S. Publication 2002/0035594) (hereinafter “Dreke”) and Black, et al. (U.S. Patent 5,878,056) (hereinafter “Black”), claims 4 and 8-10 as being unpatentable over Davis, Dreke and Black in view of Barker et al. (U.S. Patent 5,931,916) (hereinafter “Barker”), claims 16 and 17 as being unpatentable over Davis, Dreke and Black in view of Ivanoff (U.S. Patent 5,517,622), claims 19 and 20 as being unpatentable over Davis, Dreke and Black in view of Antur et al. (U.S. Patent 6,212,558) (hereinafter “Antur”), claims 23 and 24 as being unpatentable over Davis, Dreke and Black in view of Zhu et al. (U.S. Patent 5,768,557) (hereinafter “Zhu”), claims 25-27, 29-31, 35-40, 43, 45-47, 49-51, 55-60 and 63 as being unpatentable over Davis in view of Dreke, claims 28, 32-34, 48 and 52-54 as being unpatentable over Davis and Dreke in view of Barker, claims 41, 42, 61 and 62 as being unpatentable over Davis and Dreke in view of Antur, and claims 44 and 64 as being unpatentable over Davis and Dreke in view of Zhu. Applicants respectfully traverse these rejections for at least the following reasons.

Regarding claim 1, contrary to the Examiner’s assertion, Davis in view of Dreke and Black fails to teach or suggest all of the limitations of claim 1. The Examiner submits that Davis teaches *wherein each of the plurality of peer nodes comprises one or more network interfaces, wherein each network interface is configured to communicate over the network in accordance with at least one of one or more network transport protocols* in column 8, lines 21-24 (“Peer nodes”); column 9, lines 5-8 (“Endnodes establish network communication session”); and column 5, lines 40-44 (“Protocol for

controlling data packets”). Applicants note that the Examiner’s passages in columns 5 and 9 describe network transport protocols, as stated in column 5, lines 40-44, “More specifically, the present invention provides several protocols for controlling data packets at the transport layer or other packet transmission layer” (emphasis added). **In fact, the invention disclosed in Davis is directed to network transport layers and network transport protocols**, as described in the Field of Invention, “The present invention relates to communication over a computer network, and more particularly to a approach which employs dynamic window sizing, packet metering, and other techniques to provide an efficient and reliable network transport layer” (emphasis added). Various examples of such network transport protocols are also described in Davis, including ACP (an embodiment of Davis’ claimed invention), TCP (Transmission Control Protocol) and UDP (User Datagram Protocol) on UNIX systems, protocols TP0 through TP4 of the OSI model, SPX (Sequenced Packet Exchange) and IPX (Internet Packet Exchange) in Novell NetWare systems (SPX, IPX, NOVELL, and NETWARE are trademarks of Novell, Inc.), and other protocols.

The Examiner submits that Davis teaches *wherein the plurality of peer nodes is configured to implement a peer-to-peer environment on the network according to a peer-to-peer platform comprising one or more peer-to-peer platform protocols* in column 8, lines 21-24. As noted in Applicants’ previous Response, this passage merely states that a given computer “may also function as a peer in a peer-to-peer network” without describing any of the specific limitations of a peer-to-peer platform recited in the claims or mentioning *one or more peer-to-peer platform protocols*, as in claim 1. **Applicants assert that a computer may “function as a peer in a peer-to-peer network” without necessarily including a peer-to-peer platform comprising any of the specific peer-to-peer platform protocols recited in claim 1.** Merely “functioning as a peer node in a peer-to-peer network” does not require any peer-to-peer platform protocols for enabling *the plurality of peer nodes to discover each other, communicate with each other, and share content in the peer-to-peer environment*. The Examiner submits that Davis teaches these protocols in column 75, lines 3-5 (“Sending endnode request connection with receiving endnode); and column 9, lines 1-8 and 23-34 (“Establish connection for

sending data”). Applicants assert that none of these passages, or anything else in Davis, describes peer-to-peer platform protocols of a peer-to-peer platform, as required by Applicants’ claims. Davis is concerned with dynamically adjusting the propagation rate of packets between known sending and receiving nodes. Davis does not mention anything about endnodes discovering each other or about any peer-to-peer platform protocols that enable Davis’s endnodes to discover each other. Instead, Davis teaches the use of protocols such as TCP, UDP, SPX, IP, IPX and ATM, all of which are described in Davis as network transport protocols (as noted above), and none of which enables peer nodes to discover each other. For instance, Davis teaches that a channel may be established between a service on one endnode and a corresponding service on another endnode. Specifically, Davis teaches that one endnode will register itself as a service and a second application on the same or on another endnode asks to connect to that name and service type. However, the mere fact that a channel may be established between two endnodes does not imply that the two nodes are “enabled to discover each other”, much less that this is enabled by a peer-to-peer platform protocol. In the Response to Arguments section of the Office Action mailed September 21, 2007, the Examiner submits, “it is essential the receiving endnode be made known (discovered) to the sending endnode and vice versa for the two endnodes to communicate with each other.” Applicants assert that the claim does not merely recite that the peer nodes are somehow made known to each other, but that they are enabled to discover each other. As noted in Applicants’ previous Response, two computer systems (e.g. endnodes) may communicate with each other without discovering each other via a peer-to-peer platform protocol, or any particular protocol. For example, nodes may already be configured with an address for another node, or obtain an address in a way that does not involve a peer-to-peer protocol for enabling them to discover each other. Davis does not describe how these addresses are obtained, and there is nothing in Davis or the other cited references, to teach or suggest that this is done via a peer-to-peer platform protocol, since no such peer-to-peer platform protocols are described.

Applicants assert that Davis, Dreke, and Black do not describe the particular peer-to-peer platform protocols recited in claim 1. For example, these references fail to teach

or suggest any peer-to-peer platform protocols for enabling peers to discover each other, *wherein to discover comprises obtaining an address for each discovered peer node*. The Examiner admits that Davis does not teach *wherein to discover comprises obtaining an address for each discovered peer node* and relies on Dreke to teach this limitation in paragraph [0017], “Dreke teaches of peers obtaining IP addresses of interested peers.” However, this passage clearly does not teach a peer-to-peer discovery protocol that comprises obtaining an address for each discovered peer. Instead, this passage describes three client computers establishing a connection through an Internet Presence Information Server (IPIS), “In 301, Peer A first transmits to IPIS 4 the following information: his/her newly assigned network (Internet Provider (IP)) address; a list of peers whose Internet presence are of interest to Peer A; and a request for a list of peers who are interested in the Internet presence of Peer A. In this example, the list transmitted by Peer A includes Peer B and Peer C. In 302, IPIS 4 responds to Peer A’s list by transmitting a list including the last known address, such as an IP addresses for Peer B and Peer C even though the IP address for Peer B is out of date. During 302, IPIS 4 also responds to Peer A’s request for a list of peers interested in Peer A’s presence with a message indicating no peers are currently interested in his/her presence. Once IPIS 4 transmits these lists to Peer A, Peer A will no longer communicate with IPIS 4 during this network session.” This clearly does not describe a peer-to-peer platform protocol for enabling peers to discover each other, as recited in 1. Instead this describes a mechanism to establish a connection between two known peers, in which locating the peers and establishing the connection are managed by the IPIS server. Therefore, Dreke clearly does not overcome the deficiency of Davis in teaching the above-referenced limitation. In the Response to Arguments section of the Office Action mailed September 21, 2007, the Examiner submits that the claims are given their broadest reasonable interpretation, and that in this case, the Examiner considers the feature of “to discover” as “to make known” in the interpretation of the claim (as in Webster’s Third New International Dictionary 1967). Applicants again note that the claim requires that peer nodes are enabled to discover each other, not merely to be made known to each other (e.g., by an external mechanism or central server, as in Dreke). Applicants again assert that Davis in view of Dreke clearly does not teach a protocol that enables peer nodes to discover each other, according to the

limitations of claim 1. By definition, the centralized IPIS sever mechanism of Dreke does not involve a peer-to-peer platform protocol for enabling peer nodes to discover each other. Applicants further note that there are many ways (such as that described in Dreke) that a device may obtain an address for another device that do not involve a peer-to-peer platform protocol. Davis and Dreke, whether considered singly or combination, clearly do not describe the peer-to-peer platform protocol for enabling peer nodes to discover each other, according to the limitations of claim 1.

The Examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Davis and Dreke for peers to obtain the IP addresses of other peers, which would enhance the system of Davis by providing the peers with presence information to contact other peers. Applicants assert, however, that the system of Davis already includes mechanisms for endnodes to contact each other, and the Examiner has not cited anything in the references to suggest that the system of Davis would benefit from the particular methods of obtaining presence information taught in Dreke. Furthermore, the system of Dreke does not use a peer-to-peer platform protocol to obtain presence information about peers, but an Internet Presence Information Server. Therefore, even if the teachings of Dreke were incorporated into the system of Davis, the result would not teach the above-referenced limitations of Applicants' claim 1.

Further regarding claim 1, contrary to the Examiner's assertion, Davis in view of Dreke and Black fail to teach or suggest *wherein said establishing, said transmitting, said receiving, and said retransmitting are performed according to at least one of the one or more peer-to-peer platform protocols and wherein said peer-to-peer platform protocols are distinct from the at least one network transport protocols*.

The Examiner admits that Davis and Dreke do not teach this limitation and relies on Black to teach it. The Examiner submits that Black teaches implementing a messaging system that is independent of transport protocols, in column 10, lines 63-67. This passage actually states, "The message format and the safe movement protocol are

transport layer independent so that MCAs can support different transport protocols on different channels.” Applicants assert that there is nothing in Black that describes the “message format” and “safe movement protocol” as peer-to-peer platform protocols, or anything about a peer computing system, at all. Therefore, having a “message format” and a “safe movement protocol” that are transport layer independent does not teach or suggest that peer-to-peer platform protocols, such as the specific peer-to-peer platform protocols recited in claim 1, should be transport layer independent. **None of the cited references include such protocols, and the system of Davis is specifically directed to transport protocols (e.g., ACP).**

The Examiner submits that it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the suggested system of Davis and Dreke with the teachings of Black for the peer-to-peer communication and protocols as taught by the system to be implemented in a messaging system that is independent of transport layer as taught by Black. The Examiner submits that the motivation for the suggested combination is that Black’s teaching would allow specific messaging scheme in the system to support different transport protocol (col. 10, lines 63-67). The Examiner seems to be implying that the system of Black should be modified to include the “peer-to-peer communication and protocols” of Davis and Dreke. However, Black already provides a messaging scheme that supports different transport protocols. No modification to include peer-to-peer communication and protocols are necessary to meet the Examiner’s suggested goal. **Furthermore, since none of the cited references actually teach the peer-to-peer platform protocols of Applicants’ claim, the combination would clearly not result in the present invention.**

Applicants remind the Examiner that to establish a *prima facie* obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974), MPEP 2143.03. Obviousness cannot be established by combining or modifying the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion or incentive to do so. *In re Bond*, 910 F. 2d 81, 834, 15 USPQ2d 1566, 1568 (Fed. Cir. 1990). The cited art does not

teach or suggest all limitations of the claim 1, nor has the Examiner provided sufficient motivation to combine the references.

For at least the reasons above, the rejection of claim 1 is not supported by the cited art and removal thereof is respectfully requested.

Claims 25 and 45 include limitations similar to the above-referenced limitations of claim 1. Therefore, the arguments presented above apply with equal force to these claims, as well.

Applicants also assert that numerous ones of the dependent claims recite further distinctions over the cited art. However, since the rejection has been shown to be unsupported for the independent claims, a further discussion of the dependent claims is not necessary at this time.

CONCLUSION

Applicants submit the application is in condition for allowance, and notice to that effect is respectfully requested.

If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5681-07400/RCK.

Respectfully submitted,

/Robert C. Kowert/
Robert C. Kowert, Reg. #39,255
Attorney for Applicant(s)

Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398
Phone: (512) 853-8850

Date: December 19, 2007